

Civil Revision No.3713 of 2016

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.3713 of 2016

Date of Decision: 8.7.2016

Rohit Verma

---Petitioner

versus

S.P.Gupta and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Govind Sharma, Advocate
for Mr. Rajeev Kumar Gupta, Advocate
for the petitioner**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition lays challenge to orders dated 26.11.2015 and dated 9.5.2016 passed by the trial court whereby evidence of the petitioner has been closed.

Counsel for the petitioner contends that vide order dated 26.11.2015, evidence of the petitioner was closed but with a condition that the petitioner/plaintiff may produce any evidence prior to recording of evidence of the defendant on the adjourned date i.e. 14.12.2015. On 14.12.2015, the Presiding Officer was on leave and the case was adjourned to 2.1.2016. On that day, three witnesses Jai Kumar, Ranbir and Deepak Kumar were examined and other two namely Ram Niwas and Tilak Raj were present but their examination was deferred on request of counsel for the respondents/defendants and the case was adjourned to 20.1.2016. On that day, PW Ram Niwas was present and examined and the case was adjourned to 17.2.2016 for remaining evidence of the petitioner at his own responsibility. On 17.2.2016, the Presiding Officer was on leave and the case was adjourned to 29.2.2016. On that day, HC Tilak Raj was present and examined and the case was adjourned to 23.3.2016 for remaining evidence. On the adjourned date i.e. 23.3.2016, Om Pal and Rattan Singh were not present and they were ordered to be summoned through bailable warrants for 16.4.2016. On 16.4.2016, the Presiding Officer was on leave and the case was adjourned to 9.5.2016. By that time, the case was transferred to some other court and the learned Presiding Officer without

considering the order dated 23.3.2016 whereby two witnesses were ordered to be summoned through bailable warrants, closed evidence of the petitioner by relying upon order dated 26.11.2015. It is argued with vehemence that an adverse order has been passed against the petitioner due to transfer of the case to another Presiding Officer more particularly in the circumstances that the civil court is not competent to review its own orders. It is prayed that the petitioner seeks indulgence of this Court for one effective opportunity to examine Om Pal and Rattan Singh Pws and cross examination of the petitioner who has already produced his affidavit by way of examination in chief but yet to be examined in the case.

I have heard counsel for the petitioner, perused the paper book particularly the various zimni orders recorded from time to time.

Keeping in view the fact that the court vide order dated 23.3.2016 had ordered for summoning of two witnesses through bailable warrants and that order has not been set aside coupled with the factum that the petitioner has already produced on record his affidavit to be tendered by way of examination in chief along with the fact that a serious prejudice is likely to be caused to the petitioner in case he is not allowed to examine himself and his witnesses, the petitioner is allowed one effective

opportunity to examine himself, Om Pal and Rattan Singh Pws but subject to the condition that the petitioner shall ensure his presence as well as of the witnesses on the date fixed without any intervention of the Court. The petitioner shall be liable to pay costs to the tune of Rs. 10,000/- to be deposited with the trial court before the date fixed which shall be released in favour of the respondents as per law. It is clarified that the petitioner shall not be entitled to any further opportunity in case he fails to ensure presence of the aforesaid witnesses as well himself on the date already fixed before the trial court i.e. 11.7.2016.

Before parting with the order, it is clarified that the petition has been disposed of without notice to the respondents in order to avoid inconvenience and incurring expenditure by the respondents. However, if the respondents have any grievance to express, they shall be at liberty to file an appropriate application before this Court.

Disposed of.

(Rekha Mittal)
Judge

8.7.2016

PARAMJIT